IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Criminal Application No.1544/07 in Criminal Application No. 948/07

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : **A.P. Lavande, J**
DATE : 6.6.2007

Mrs. Jog, learned A.P.P. sought urgent circulation of the above application today in the morning session and looking to the urgency involved in the matter circulation was granted at 2.30 p.m.. In the afternoon when the matter is called out, the applicant Dinesh Tule along with Advocate Gandhi and Mrs. Jog, learned A.P.P. are present.

2. The applicant Dinesh Tule had filed Criminal Application No. 948/07 seeking anticipatory bail for the offences punishable under Sections 306, 420, 120 B, 212, 424, 468 and 471 of the Indian Penal Code. The matter was taken up by the learned Vacation Judge on 29th May 2007. The learned Judge held that the applicant was not entitled to the relief under Section 438 of the Code of Criminal Procedure but on the contrary the learned Judge held that the Investigating Officer was entitled to have custody for interrogation of the applicant for a period of 7 days and accordingly directed the applicant to surrender before the

Investigating Officer on 31.5.2007 at 11.00 a.m.. Pursuant to the said order, the applicant surrendered before the P.S.I. Sakharkar of Katol Police Station on 31.5.2007 at 10.30 a.m. and since then the applicant has been in police custody. In the said order dated 29.5.2007 the learned Judge has observed that in case the Investigating Officer required custody of the applicant for more than 7 days, he would at liberty to move this court for justifiable reasons. Pursuant to the said direction, the Investigating Officer has moved the present application seeking further police custody remand of the applicant.

3. At the outset, Mrs. Jog, the learned A.P.P. submitted that since the offences registered against the applicant are not punishable with life or death, the Magistrate will have jurisdiction to decide whether to grant custody or to grant bail to the applicant. She further submitted that it would be just and proper to permit the Investigating Officer to produce the applicant before the Magistrate for seeking further police custody remand.

4. Mr. Gandhi, the learned counsel appearing for the applicant also does not dispute that the Magistrate has jurisdiction to decide whether to grant custody to the applicant and /or to grant bail to the applicant in the event the Magistrate is inclined to grant bail to the applicant. Mr. Gandhi also submits that he will have no objection if

Investigating Officer is permitted to produce the applicant before the Court of the Magistrate at Katol for seeking remand which he would oppose.

5. Having carefully considered the submissions made by the learned counsel for the applicant and learned A.P.P. and having perused the order dated 29th May 2007 passed by this Court I am of the considered opinion that the order dated 29.5.2007 to the extent it permits the Investigating Officer to seek further police custody remand from this court deserves to be modified and is accordingly modified and the Investigating Officer is directed to produce the applicant before the Magistrate at Katol for seeking further police custody remand. Mr. Gandhi has brought to my notice that 7 days' police custody expires at 10.30 a.m. on 7th June, 2007 and, therefore, it is necessary that any further order either for extension of police custody or judicial custody must be passed before 10.30 a.m. on 7.6.2007.

6. In view of the above, the Investigating Officer is directed to produce the applicant before the concerned Magistrate at Katol today itself. The learned Magistrate before whom the applicant will be produced shall dispose of the application seeking further custody of the applicant before 10.30 a.m. on 7.6.2007.

7. The application filed by the Investigating Officer

seeking further police custody remand is disposed of in the aforesaid terms.

The copy of this order duly authenticated by the Court Sheristedar of this Court be supplied to the parties free of costs.

Judge

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